

**HOWREY**

525 Market Street  
Suite 3600  
San Francisco, CA 94105-2708  
T 415.848.4900  
F 415.848.4999  
www.howrey.com

July 14, 2008

File 00474.0004.000000

Hon. Phyllis J. Hamilton  
Judge, United States District Court  
Northern District of California  
450 Golden Gate Avenue  
Courtroom 3, 17<sup>th</sup> Floor  
San Francisco, CA 94012

**Re: *AuthenTec Inc. v. Atrua Technologies, Inc.*;  
Case No. 08-CV-1423 PH**

Dear Judge Hamilton:

In accordance with the Court's instructions at the Case Management Conference, AuthenTec selects U.S. Patent No. 5,963,679 and U.S. Patent No. 6,259,804 as the patents to be construed at the first claim construction hearing set for hearing on April 1, 2009 at 9:00 a.m.

AuthenTec respectfully requests the right to request permission to modify its election. To date, AuthenTec has received no discovery from Atrua, as discovery requests were just recently served by both parties in accordance with Federal Rule of Civil Procedure Rule 26. Moreover, in accordance with the Court's July 11, 2008 Order adopting the parties proposed schedule, the parties will be providing infringement and invalidity contentions on all patents-in-suit in the next several months. Discovery and the contentions may further inform AuthenTec's election set forth herein. Should AuthenTec seek to modify its election, it will promptly seek a stipulation from Atrua and/or take other action as necessary.

Respectfully submitted,

*/s/Denise M. De Mory*

Denise M. De Mory  
Counsel for Plaintiff  
AuthenTec, Inc.

DMD:plk

cc: Opposing Counsel (via ECF)

AMSTERDAM BRUSSELS CHICAGO EAST PALO ALTO HOUSTON IRVINE LONDON LOS ANGELES  
MADRID MUNICH NEW YORK NORTHERN VIRGINIA PARIS SALT LAKE CITY SAN FRANCISCO TAIPEI WASHINGTON, DC